R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

COMPLETENESS OF THE OFFICE ACTION

Aside from a notice of allowance, Applicant's representative respectfully requests a new office action on the merits. No sustainable argument was presented in the rejection of claim 2 as required by 37 CFR §1.104(b) and MPEP §706.07. As such, the current Office Action is incomplete and should be withdrawn.

SUPPORT FOR CLAIM AMENDMENTS

Support for the amendments may be found, for example, in the specification on page 7 line 1 through page 9 line 19, FIG. 2 and claim 1, as originally filed. Thus, no new matter has been added.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

The rejection of claim 22 under 35 U.S.C. §102(e) as being anticipated by Jeannin, U.S. Publication No. 2003/0123841, is respectfully traversed and should be withdrawn.

Jeannin concerns commercial detection in audio and visual context based on scene change distances on separator boundaries

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audio/video recorder with automatic commercial advertisement detection and skip feature (Title).

Claim 22 provides a detector circuit configured to generate (i) an audio/video data signal and (ii) a plurality of score signals of various levels in response to an input signal. Despite the assertion in the Office Action, the Commercial Detector 22 of Jeannin (alleged claimed detector circuit) does not generate both an audio/video data signal AND a plurality of score signals. In contrast, FIG. 2 of Jeannin only shows a single output from the Commercial Detector 22. Paragraph 0029 of Jeannin further states that the Commercial Detector 22 "generates the location of commercial breaks based on some 'mid-level features,' such that these locations are stored to skip commercials at viewing time." Generating one output of commercial break locations does not anticipate generating both (i) an audio/video data signal and (ii) score signals. Therefore, Jeannin does not appear to disclose or suggest a detector circuit configured to generate (i) an audio/video data signal and (ii) a plurality of score signals of various levels in response to an input signal as presently claimed.

Claim 22 further provides a data storage device configured to store the audio/video data signal. In contrast, Jeannin appears to be silent regarding a hard disk drive 16 and/or a memory 26 (alleged claimed data storage device) storing an audio/video data signal allegedly generated by the Commercial

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Detector 22 (alleged claimed detector circuit). Instead, FIG. 2 of Jeannin shows the hard disk drive 16 receiving an audio/video signal only from an MPEG-2 encoder 14. Therefore, Jeannin does not appear to disclose or suggest a data storage device configured to store the audio/video data signal as presently claimed. The structure of Jeannin is different than the claimed structure. As such, claim 22 is fully patentable over the cited reference and the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 1-3, 5-11 and 13-20 under 35 U.S.C. §103(a) as being anticipated by Logan et al. '166 (hereafter Logan) in view of Jeannin has been obviated in part, is respectfully traversed in part, and should be withdrawn.

The rejection of claim 12 under 35 U.S.C. §103(a) as being anticipated by Logan in view of Jeannin and Dimitrova et al. '941 (hereafter Dimitrova) is respectfully traversed and should be withdrawn.

Logan concerns an apparatus and methods for broadcast monitoring (Title). Jeannin concerns commercial detection in audio and visual context based on scene change distances on separator boundaries audio/video recorder with automatic commercial advertisement detection and skip feature (Title). Dimitrova

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concerns an apparatus and method for locating a commercial disposed within a video data stream (Title).

Claim 1 provides a step of marking a portion of an audio/video signal in response to one or more scores. In contrast, the cited text in column 13, lines 11-30 of Logan is silent regarding a step of marking _in response to one or more scores_. The Office also states that Logan "does not teach generating one or more scores of various levels". Therefore, the assertion in the Office Action that Logan teaches a step of marking in response to the (non-existing) scores cannot be sustained.

Claim 1 further provides a step of preventing a user from advancing past marked material during playback in response to the one or more scores. In contrast, the cited text in column 12, lines 11-30 of Logan is silent regarding a step of prevention _in response to one or more scores_. As noted above, the Office Action states that Logan does not teach generating the claimed scores. Therefore, the assertion in the Office Action that Logan teaches a step of preventing in response to the (non-existing) scores cannot be sustained.

The Office Action alleges that Jeannin teaches generating one or more scores in paragraphs 0008-0010. However, a review of Jeannin, including the cited paragraphs, did not identify any text discussing generation of scores of various levels in response to triggering events as presently claimed (in step (A)). Therefore,

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prima facie obviousness has not been established for lack of evidence that the references teach or suggest all of the claimed limitations.   As such, the Office is respectfully requested to either (i) clearly identify which elements of Jeannin are allegedly similar to the claims scores, the claimed various levels and the claimed triggering events and then explain how both the marking feature and the blocking (preventing) feature Logan would be modified to respond to the scores of Jeannin or (ii) withdraw the rejection.

Furthermore, the alleged motivations to combine/modify Logan and Jeannin do not appear to comply with the burden of proof defined in the MPEP §2143.01. The alleged motivations to (i) "make commercial detection easier" and (ii) "make broadcasted commercial much [sic] effective" are not credited to any reference, general knowledge in the art, or found in the nature of a problem to be solved.   No evidence is on record that combining/modifying Logan with Jeannin would in fact make commercial detection easier or make the commercials effective.   The Office Action merely provides speculation where evidence is required.   Therefore, *prima facie* obviousness has not been established for lack of evidence to combine/modify the references.   As such, rejection of claims 1 and 13 should be withdrawn.

Claim 13 further provides a detector circuit configured to generate (i) an audio/video data signal and (ii) one or more

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score signals of various levels in response to an input signal. Despite the assertion in the Office Action, the Commercial Detector 22 of Jeannin (alleged claimed detector circuit) does not generate both an audio/video data signal and a plurality of score signals. In contrast, FIG. 2 of Jeannin only shows a single output from the Commercial Detector 22. Paragraph 0029 of Jeannin further states that the Commercial Detector 22 "generates the location of commercial breaks based on some 'mid-level features,' such that these locations are stored to skip commercials at viewing time." Generating one output of locations does not teach generating both (i) an audio/video data signal and (ii) score signals. Therefore, Logan and Jeannin, alone or in combination, do not appear to teach or suggest a detector circuit configured to generate (i) an audio/video data signal and (ii) one or more score signals of various levels in response to an input signal as presently claimed.

Claim 13 further provides a data storage device configured to store the audio/video data signal and the one or more score signals. In contrast, Jeannin appears to be silent regarding the hard disk drive 16 and/or the memory 26 (alleged claimed data storage device) storing an audio/video data signal generated by the Commercial Detector 22 (alleged claimed detector circuit). Instead, FIG. 2 of Jeannin shows the hard disk drive 16 receives an audio/video signal only from an MPEG-2 encoder 14. Furthermore, since the Office Action does not clearly identify which signals of

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Jeannin are allegedly similar to the claimed score signals, no evidence is on record that either the hard disk drive 16 and/or the memory 26 of Jeannin (alleged claimed data storage device) stores the unidentified alleged score signals allegedly generated by the Commercial Detector 22 (alleged claimed detector circuit). Therefore, Logan and Jeannin, alone or in combination, do not appear to teach or suggest a data storage device configured to store the audio/video data signal and the one or more score signals as presently claimed.   As such, the Office is respectfully requested to either (i) clearly identify which elements of Jeannin are allegedly similar to the claims score signals, the claimed various levels and the claimed triggering events and cite where Jeannin allegedly teaches that the alleged score signals are stored in the hard disk driver 16 and/or the memory 26 or (ii) withdraw the rejection.

Claim 2 provides that step (A) (in claim 1) comprises detecting synchronized audio and video statistics from both an audio portion and a video portion of the audio/video signal.   In contrast, the Office Action offers no evidence or arguments that Logan and/or Jeannin teach or suggest the claimed limitation. Furthermore, the August 11, 2006 Office Action states, "Jeannin does not teach detecting synchronized audio and video statistics from both an audio portion and a video portion of said audio/video signal." Hence, *prima facie* obviousness has not been established

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for lack of evidence that the references teach or suggest all of the claimed limitations. As such, the rejection of claim 2 should be withdrawn.

Claim 20 provides that the detector circuit comprises (from claim 19) an audio processor, (from claim 19) a video processor and (from claim 20) an analyzer circuit. In contrast, the Office Action cites claim 19 of Jeannin which mentions "said processor". One processor does not teach or suggest all three of an audio processor, a video processor and an analyzer circuit as presently claimed. Therefore, Logan and Jeannin, alone or in combination, do not appear to teach or suggest that the detector circuit comprises an audio processor, a video processor and an analyzer circuit as presently claimed. As such, claim 20 is fully patentable over the cited references and the rejection should be withdrawn.

Claim 12 provides wherein a particular one of the scores is used to determine how aggressive the method determines whether the triggering events are detected. In contrast, the cited text of Dimitrova in column 1, lines 10-20 reads:

> Television programs are commonly recorded through the use of a Video Cassette Recorder ("VCR"). Recordation allows a user to either view a program at a later time or to simultaneously watch a program and retain a copy of it to view at a later time. When a VCR is used to create a copy of the program to be viewed at a later time, many users are not interested in the content of commercials or promotions that are interposed within the television program. Such a user generally skips through these commercials manually.

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Manually skipping through commercials does teach or suggest a method wherein a particular one of one or more scores are used to determine how aggressive the method determines whether the triggering events are detected as presently claimed. Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claimed limitations. As such, the rejection of claim 12 should be withdrawn.

Claims 2, 3, 5-12 and 14-20 depend from claims 1 and 13, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.
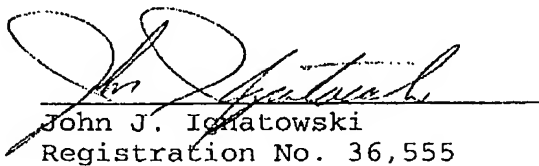
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 between the hours of 9:00 AM and 5:00 PM Eastern Time should it be deemed beneficial to further advance prosecution of the application.

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If any additional fees are due, please charge Deposit Account No. 12-2252.

Respectfully submitted,

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